

**REMARKS**

Claims 1–20 are pending in the present application.

Claims 1, 3, 8 and 15–20 were amended herein.

Reconsideration of the claims is respectfully requested.

**35 U.S.C. § 102 (Anticipation)**

Claims 1, 3–5, 8–10, 12–13, 15–17 and 19–20 were rejected under 35 U.S.C. § 102(e) as being anticipated by WO 99/31837 to *Shiue et al.* This rejection is respectfully traversed.

A claim is anticipated only if each and every element is found, either expressly or inherently described, in a single prior art reference. The identical invention must be shown in as complete detail as is contained in the claim. MPEP § 2131 at p. 2100-73 (8<sup>th</sup> ed. rev. 2 May 2004).

Independent claims 1 and 16 each recite determining and storing at least one signal-related profile parameter and at least one channel-related profile parameter, where the signal-related and channel-related parameters collectively represent communication of a first burst data signal over a first channel to the receiving station. Such a feature is not found in the cited reference. The Office Action alternately characterizes AGC, CTL and equalization from *Shiue et al* as both signal-related and channel-related, depending upon the claim limitation within a given claim (e.g., claims 3 and 8). Those parameters cannot logically be both signal-related AND channel-related.

Therefore, the rejection of claims 1, 3–5, 8–10, 12–13, 15–17 and 19–20 under 35 U.S.C. § 103 has been overcome.

**35 U.S.C. § 103 (Obviousness)**

Claims 2, 14 and 18 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Shiue et al* in view U.S. Patent No. 6,230,326 to *Unger et al*. Claims 6–7 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Shiue et al* in view U.S. Patent No. 6,654,384 to *Reza et al*. Claim 11 was rejected under 35 U.S.C. § 103(a) as being unpatentable over *Shiue et al* in view U.S. Patent No. 6,345,071 to *Hamdi*. These rejections are respectfully traversed.

In *ex parte* examination of patent applications, the Patent Office bears the burden of establishing a *prima facie* case of obviousness. MPEP § 2142; *In re Fritch*, 972 F.2d 1260, 1262, 23 U.S.P.Q.2d 1780, 1783 (Fed. Cir. 1992). The initial burden of establishing a *prima facie* basis to deny patentability to a claimed invention is always upon the Patent Office. MPEP § 2142; *In re Oetiker*, 977 F.2d 1443, 1445, 24 U.S.P.Q.2d 1443, 1444 (Fed. Cir. 1992); *In re Piasecki*, 745 F.2d 1468, 1472, 223 U.S.P.Q. 785, 788 (Fed. Cir. 1984). Only when a *prima facie* case of obviousness is established does the burden shift to the applicant to produce evidence of nonobviousness. MPEP § 2142; *In re Oetiker*, 977 F.2d 1443, 1445, 24 U.S.P.Q.2d 1443, 1444 (Fed. Cir. 1992); *In re Rijckaert*, 9 F.3d 1531, 1532, 28 U.S.P.Q.2d 1955, 1956 (Fed. Cir. 1993). If the Patent Office does not produce a *prima facie* case of unpatentability, then without more the applicant is entitled to grant of a patent. *In re Oetiker*, 977 F.2d 1443, 1445, 24 U.S.P.Q.2d 1443, 1444 (Fed. Cir. 1992); *In re Grabiak*, 769 F.2d 729, 733, 226 U.S.P.Q. 870, 873 (Fed. Cir. 1985).

A *prima facie* case of obviousness is established when the teachings of the prior art itself suggest the claimed subject matter to a person of ordinary skill in the art. *In re Bell*, 991 F.2d 781, 783, 26 U.S.P.Q.2d 1529, 1531 (Fed. Cir. 1993). To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed invention and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. MPEP § 2142.

As noted above, independent claims 1 and 16 each recite limitations not found in *Shiue et al.* Such features are also not found in the remaining cited references.

Therefore, the rejection of claims 2, 6–7, 11, 14 and 18 under 35 U.S.C. § 103 has been overcome.

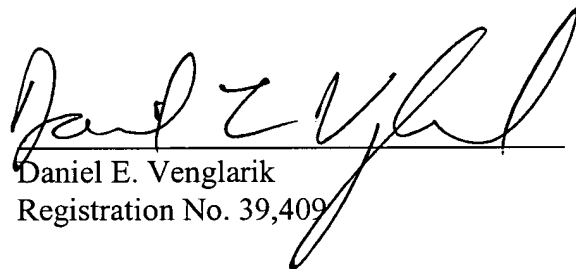
If any issues arise, or if the Examiner has any suggestions for expediting allowance of this Application, the Applicant respectfully invites the Examiner to contact the undersigned at the telephone number indicated below or at *dvenglarik@davismunck.com*.

The Commissioner is hereby authorized to charge any additional fees connected with this communication or credit any overpayment to Deposit Account No. 50-0208.

Respectfully submitted,

DAVIS MUNCK, P.C.

Date: 12-22-04

  
Daniel E. Venglarik  
Registration No. 39,409

P.O. Drawer 800889  
Dallas, Texas 75380  
(972) 628-3621 (direct dial)  
(972) 628-3600 (main number)  
(972) 628-3616 (fax)  
E-mail: *dvenglarik@davismunck.com*

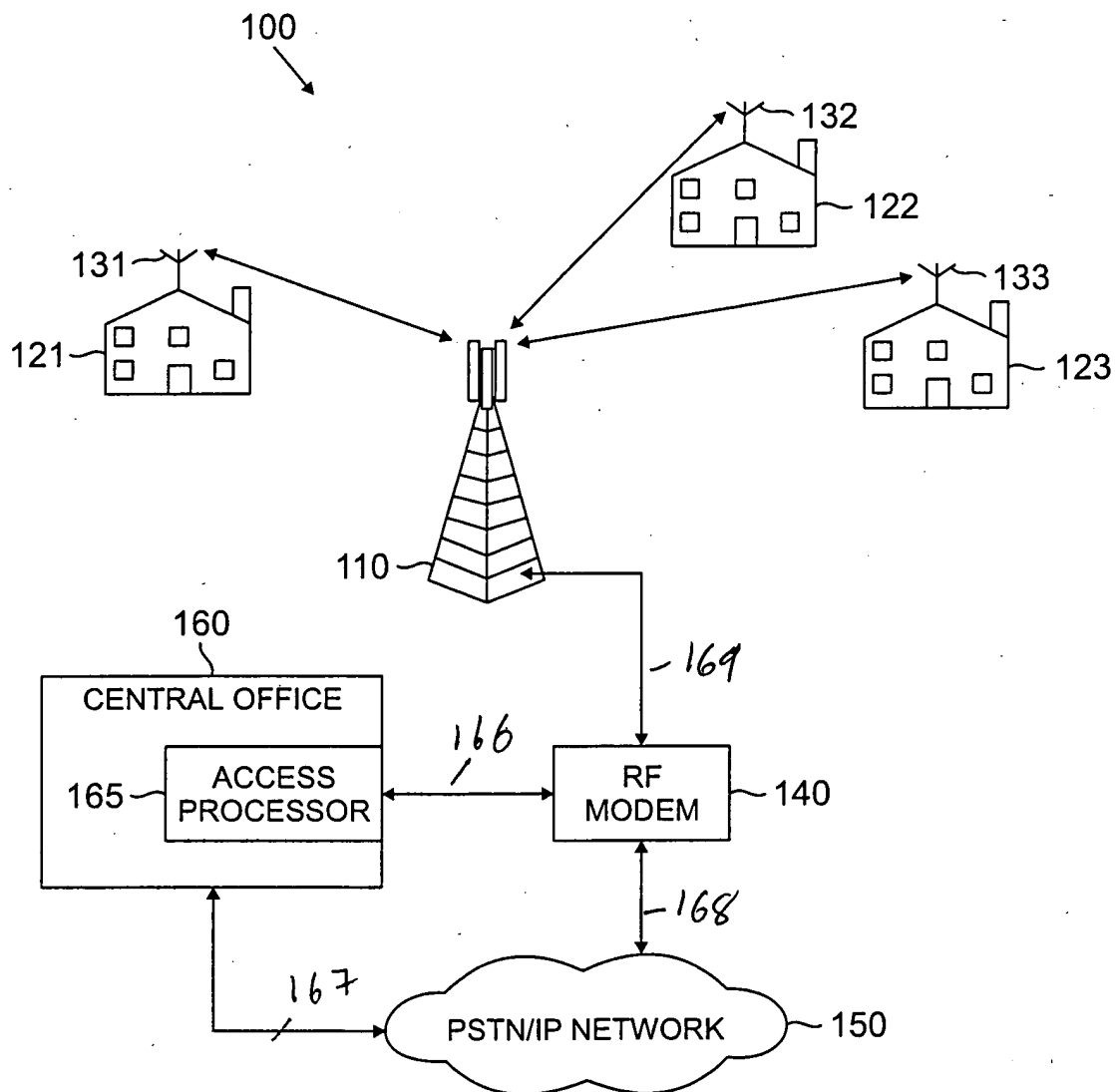


FIG. 1